

Approved: Meeting No. 45-86

ATTEST: *Carol A. Kachadoorian*

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
MEETING NO. 36-86

September 15, 1986

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chambers, Rockville, City Hall, Maryland Avenue at Vinson Street, Rockville, Maryland, on Monday, September 15, 1986, at 8:00 p.m.

PRESENT

Mayor Steven Van Grack

Councilman Steve Abrams

Councilman Douglas Duncan

Councilman Peter Hartogensis

ABSENT

Councilman James Coyle

The Mayor in the Chair.

In attendance: City Manager Richard V. Robinson, City Clerk Carol A. Kachadoorian, City Attorney Paul G. Glasgow.

Re: Invocation

Reverend Richard Vinson, Christ Episcopal Church provided the invocation.

Re: City Manager's Report

Mr. Robinson reported the following:

1. The City received a letter from Southland Corporation in reference to the Seven-Eleven Store in the Ritchie Center, stating that it would be closing from midnight to 5:00 a.m. beginning on September 15, 1986.

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2. The City has been challenged by a softball team from the Chronicle Newspapers to a softball game on Thursday, September 18, 1986, at 5:30 p.m. at Welsh Park. The City team, known as the City Hall Blues, are expecting to win the game.

3. The City Plan of 1803 has been restored and framed. It is hanging in the City Clerk's office and all are invited to view it.

Re: Mayor's Report

Mayor Van Grack expressed thanks to Chief Stout and to Doug Horne for an outstanding job in resolving the matter of the Seven-Eleven Store at Ritchie Parkway. Councilman Abrams asked that the City Manager's efforts also be recognized.

1. The Mayor complimented staff for the service awards they had received on Thursday, September 11, 1986. Mayor Van Grack noted that Thomas Foreman, of the Department of Recreation and Parks, received a thirty-five year award. This was the first time that an employee has received such an award. In addition, the Mayor noted that for the first time, a woman has received a twenty-five year award. Joan Williford from the Police Department was the recipient. Mayor Van Grack expressed a great deal of pride in having the opportunity to present the awards.

2. Mayor Van Grack presented certificates to the members of the Sister City Task Force for their time and effort for serving on the Task Force. Members receiving certificates were Thomas Hassel, James Patrician, Richard Knorpp, David Patrician and Brigitta Mullican. Brigitta Mullican thanked the Mayor for the certificates, noting that 1987 marks the 30th anniversary of the sister city relationship with Pinneburg, West Germany, and reported that there are great plans in the works to commemorate the anniversary. In addition, Ms.

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Mullican invited all to attend the Oktoberfest, to be held on September 28, 1986 at the Senior Center.

Re: Citizens Forum

1. Robert Jacques, 629 Aster Boulevard, asked the Mayor and Council for help in saving channels 90 and 92 (the Bravo Channels) from being eliminated when the franchise system is sold. Mr. Jacques noted that these two channels are the lowest rated channels and he has heard that Houser Communications intends to abandon them. He urged the Mayor and Council not to use ratings as a controlling factor in determining what channels would remain if the Mayor and Council have a choice in making such decisions.

2. Charlotte Joseph, 7 Lorre Court, informed the Mayor and Council of the upcoming Montgomery County Ethnic Affairs festival, to be held on September 21, 1986 from noon to 7:00 p.m. at Wheaton Regional Park. She explained the attractions of the festival to the Mayor and Council citing the theme as being "Ethnic America, Welcome".

3. Diane Gould, of 5 Eaglebrook Court, addressed the Mayor and Council regarding proposed Text Amendment T-78-86. She stated that the ordinance to adopt the text amendment was not ready for distribution to the public as had been promised at the work session held on September 8, 1986. She expressed concern and confusion about who was running city operations. In addition, she advised the Mayor and Council that she has heard that the County has cancelled its hearing for zoning of the Fortune Parc property. She feels that citizens needs are being ignored and referenced the neighborhood referral process discussed by the Mayor and Council. She requested postponement of the

introduction of the ordinance to adopt text amendment T-78-86 that is scheduled for this evening.

Councilman Hartogensis, referring to a memorandum from the Director of Planning that outlined the procedures for the neighborhood referral process, noted that language regarding exparte communication does not disallow developers and civic associations from communicating with one another. Mike Davis, Director of Planning, explained the phrase, stating that its intent is to disallow exparte communication between people who make decisions and people who make recommendations. The intent is not to limit the communication between developers and citizens. Mr. Davis further noted that the prohibition of exparte communication is a law of Montgomery County, however, it is not a law of the City.

Councilman Abrams stated that it is not a legal requirement of the City, for good reason, and that the procedures currently used regarding exparte communication has not been rigid, in order to allow for a better understanding of a proposed development by all concerned parties.

Councilman Abrams asked when the consent agenda is before them, that the introduction of the ordinance to adopt text amendment T-78-86, be removed from the consent agenda to allow for discussion. Councilman Abrams stated that he would be willing to consider postponement of introduction of the ordinance. Councilman Coyle agreed with Councilman Abrams on this point.

4. William Mark Allen, representing a collition of twenty-five homeowners associations, shared with the Mayor and Council the same concerns as expressed by Diane Gould. He stated that the coalition of homeowners associations which he represents requests a delay from the county in regards to the hearing for the Fortune Parc development. In addition, he stated he was also concerned

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with the language regarding exparte communication, noting that with the Westmont development, all concerned parties talked with one another and resolved issues of concern. He asked that the Mayor and Council delay until September 22, 1986, introduction of the ordinance to adopt text amendment T-78-86 and delay a final vote on the ordinance until October 6, 1986.

Councilman Duncan suggested that the ordinance be introduced as scheduled, however, the vote be delayed until October 6, 1986. Mr. Allen restated his desire to delay introduction so that residents could get a complete, clean copy of the proposed ordinance. Councilman Abrams asked City Attorney Paul Glasgow if it would be possible to introduce the ordinance and reopen the record of the public hearing on the proposed text amendment. Mr. Glasgow replied that it is possible to do this and that introducing the ordinance simply puts it on the agenda. Councilman Hartogensis noted that if the ordinance is introduced this evening, and the Mayor and Council reopened the record, there will be three weeks for comment before the October 6, 1986 meeting. At that time, the Mayor and Council could amend the ordinance based upon comments received during the three week period. Mayor Van Grack expressed his support for introducing the ordinance this evening with a vote on adoption delayed until October 6, 1986. In addition, he stated that there is no credance to the claim that the City is ignoring citizen input and needs in the ordinance. The Mayor further stated that there will be a three week period to review the ordinance once it is introduced and that a copy of it will be mailed to all speakers at the public hearing.

Finally, the Mayor commented that he believes that City staff is great. He noted that there may have been a problem with communication on this particular issue, but that he stands behind staff.

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Re: Consent Agenda

Mayor Van Grack requested that the Introduction of Ordinance to adopt Text Amendement T-78-86 be removed from the consent agenda for separate consideration.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the next two items on the consent agenda were approved.

Re: Approval of Request  
for On-site Storm  
Water Management  
Waiver, 822 (and  
820), Rockville Pike

This 1.4 acre parcel of land is located in the Cabin John Creek drainage area. This site is the former location of Bergmanns Laundry and the Emperor Ming Restaurant. Redevelopment of this site includes land disturbing activity resulting from the removal of the smaller building and part of the other building. There will be 0.13 acres of imperviousness from this land disturbing activity.

On-site methods of SWM were considered but were not recommended because the facility would be located near existing adjacent building foundations and seepage would be possible. The structure would also be small, and it is staff's experience with SWM structure serving less than 0.25 acres shows that they are prone to maintenance problems and failures.

Runoff from this site is conveyed by an enclosed storm drainage system to a tributary of Cabin John Creek. The runoff is then conveyed by the stream to the Dawson Farm SWM Facility. The Dawson Farm SWM Facility can provide the required storage for the waiver area.

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It is recommended that a waiver be granted and that a contribution of \$2,600 (0.13 acres @ \$20,000 per acre) be accepted for the City's Off-Site SWM Program.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of those present, the Mayor and Council granted the On-site SWM Waiver and excepted a contribution of \$2,600 towards the City's Off-site SWM Program.

Re: Introduction of  
Ordinance to Adopt  
Text Amendment T-78-  
86

On motion of Councilman Duncan, there was introduced upon the table, an ordinance to grant Text Amendment Application T-78-86, said ordinance to lay over at least one week before final action is taken.

Councilman Duncan requested that several technical changes be made before the ordinance is introduced. The changes to be made are located on page five (5) of the ordinance, Section 5-707 and Section 5-708. Councilman Duncan stated his agreement with introducing the ordinance this evening and voting on adoption on October 6, 1986. He asked that the Planning Commission discuss the draft memorandum on the mandatory neighborhood referral process as soon as possible.

On motion of Councilman Hartogensis, duly seconded and unanimously passed, the record for the hearing on Text Amendment Application T-78-86 was reopened until 5:00 p.m. October 6, 1986. Councilman Abrams asked the City Manager to provide the Mayor and Council with a clear understanding of the timeframe in the County for considering the Fortune Parc development. Mr. Robinson responded that the staff will attempt to provide such information, but it might be difficult, given the fact that Montgomery County has not selected a date for the hearing on zoning for the Fortune Parc tract. He

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further noted that a letter had been drafted to be sent to Mr. Phillip Tierney, the Montgomery County hearing examiner for the Fortune Parc zoning application, suggesting acceptable dates for a continuance of the hearing. The Mayor and Council made several changes to the letter, selecting January 5 and 7 as their preferred dates for the county hearing.

Re: Consideration of Request  
from Stepping Stones for  
a Refund of Special  
Exception Application  
Fee

On Motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the request for a refund of Special Exception Application Fee for Stepping Stones, was denied as recommended by staff.

Mayor Van Grack noted that there are few other organizations as worthwhile as Stepping Stones, however, he concurred with the staff recommendation. Councilman Abrams pointed out the third bullet in staff's memorandum on the issue, stating that the application from Stepping Stones required staff effort that in all likelihood exceeded the amount of the fee that had been paid. Councilman Abrams stated he wants to reserve the right to refund the fee on a case by case basis, depending upon the amount of work required by staff to process the application.

Re: Approval of Minutes

On motion of Councilman Duncan, duly seconded passed, with Councilman Hartogensis abstaining, the Minutes of Meeting No. 36-86, June 9, 1986, were approved as amended.



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Re: New Business

1. Councilman Duncan noted the grand opening of the American Legion Hall to be held in October. He asked that a Rockville flag be presented to members of the American Legion for the occasion and suggested that members of the Mayor and Council be present.

Re: Executive Session

There being no further business to come before the Mayor and Council in general session, the meeting was closed in order to discuss personnel and land negotiation matters.

Re: Adjournment

There being no further business to come before the Mayor and Council in executive session, the meeting was adjourned at 10:30 p.m. to convene again in general session on Monday, September 22, 1986, at 8:00 p.m. or at the call of the Mayor.